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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,753	01/28/2004	Janet W. Rivett	031456/272026	2267
826	7590	04/03/2007	EXAMINER	
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			NUTTER, NATHAN M	
			ART UNIT	PAPER NUMBER
			1711	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/03/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/766,753

Applicant(s)

RIVETT ET AL.

Examiner

Nathan M. Nutter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 15-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 16 February 2007 has been entered.

In future correspondence, applicants are required to respond to each and every rejection, as set out, and not in a blanket fashion. Otherwise, the Response will be deemed as Non-responsive.

Response to Amendment

In response to the amendment filed 16 February 2007, the following is placed in effect.

The rejection of claims 1-14 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Khanarian (Polymer Engineering and Science), is not being maintained at this time in view of the amendment.

The rejection of claims 1-11 under 35 U.S.C. 102(b) as anticipated by Abe et al (US 5,854,349), is not being maintained at this time in view of the amendment.

The rejection of claims 1-7 and 10-14 under 35 U.S.C. 102(b) as anticipated by Miyamoto et al (EP 0 995 776), is not being maintained at this time in view of the amendment.

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The following new grounds of rejections are being made.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The Specification, as originally filed, provides no support for the language "a difference of refractive index of 0.03 or greater," as amended into claim 1.

Claim Rejections - 35 USC § 102/103

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-7 and 10-12 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Moriya et al (US 4,918,133).

The patent to Moriya et al (US 4,918,133) teaches the production of a polymer blend composition that may comprise a cyclic olefin copolymer (denoted as component (A) in the patent) which may comprise norbornene, bicyclo[2,2,1]-2-hept-2-ene, 1-methylbicyclo[2,2,1]-2-hept-2-ene or hexacyclo[6,6,1,1^{3,6},1^{10,13},0^{2,7},0^{9,14}]-4-heptadecene, as recited in instant claims 1 and 3, and the acyclic monomer, ethylene, as recited in claims 1, 3, 4 and 5, with a styrenic elastomer copolymer (denoted as component (B) (iv) in the patent) that includes a saturated alkene monomer, including butadiene, of claims 6 and 7, wherein the styrene content embraces that recited herein for claims 1 and 2. Note the Abstract for the broad disclosure. Further, note formulae I-IV for the cyclic olefin monomer at columns 5 and 6, column 6 (line 4) to column 7 (line 36) and the formulae of Tables 1 and 2. Note the paragraph bridging column 17 to column 18 for the elastomer constituent and the styrenic content as recited in claim 2. At column 3 (lines 34-40), the reference teaches a styrenic copolymer content of 1 to 100 parts by weight of (B) based on 100 parts by weight of (A), which embraces the range recited in instant claims 10 and 11. As regards the recitations of haze values and peak impact energy in claims 1 and 12, nothing is recited in the claims which might be construed as different from that disclosed by the reference with regards to the constituents, their respective monomer contents, or compositional limitations which would produce these characteristics. As such, the artisan following the teachings of the reference would have a high level of expectation of success to achieve these characteristics.

Though the reference is silent with regard to the difference in refractive indices of the two components, there is nothing disclosed in the reference to indicate the resins are index matched. As such, the reference would embrace compositions having these differences in refractive index. Nothing unexpected or surprising has been shown on the record.

Claims 1, 3-7 and 10-12 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Zen et al (US 2002/0128392).

The patent to Zen et al (US 2002/0128392), discloses the production of a polymer blend composition that may comprise a cyclic olefin copolymer (denoted as component (C) in the patent) which may comprise norbornene or bicyclo[2,2,1]-2-hept-2-ene, as recited in instant claims 1 and 3, and the acyclic monomer, ethylene or propylene, as recited in claims 1, 3, 4 and 5, with a styrenic elastomer copolymer (denoted as component (A) in the patent) that includes a saturated alkene monomer, including butadiene, of claims 6 and 7. Note the Abstract for the broad disclosure. Further, note paragraphs [0031]-[0045] and the many formulae for the cyclic olefin monomer. Note paragraphs [0014]-[0017] for the elastomer constituent.

At paragraph [0010], the reference teaches a styrenic copolymer content of "1 part to 95 parts by weight of component (A),...and 1 part to 95 parts by weight of component (C)," which range embraces the range recited in instant claims 10 and 11. As regards the recitations of haze values and peak impact energy in claims 1 and 12,

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nothing is recited in the claims which might be construed as different from that disclosed by the reference with regards to the constituents, their respective monomer contents, or compositional limitations which would produce these characteristics. As such, the artisan following the teachings of the reference would have a high level of expectation of success to achieve these characteristics.

Though the reference is silent with regard to the difference in refractive indices of the two components, there is nothing disclosed in the reference to indicate the resins are index matched. As such, the reference would embrace compositions having these differences in refractive index. Nothing unexpected or surprising has been shown on the record.

Response to Arguments

Applicant's arguments filed 16 February 2007 have been fully considered but they are not persuasive.

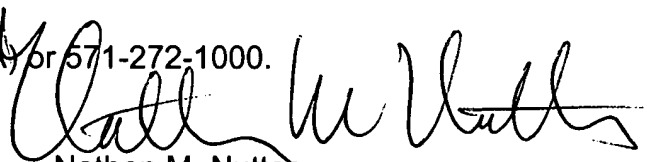
With regard to the rejection of claims 1-7 and 10-12 over Moriya et al (US 4,918,133) or Zen et al (US 2002/0128392), applicants have not addressed any differences of refractive indices of either reference composition. Applicants failed to argue the merits of the rejections made over these references with regard to the amendment of claim 1.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan M. Nutter whose telephone number is 571-272-1076. The examiner can normally be reached on 9:30 a.m.-6:00 p.m..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Nathan M. Nutter
Primary Examiner
Art Unit 1711

nmn

28 March 2007